

## § 802.71

pursuant to the Commission's Rules of Practice; or

(c) A proposal for a consent judgment that has been submitted to a Federal court by the Federal Trade Commission or the Department of Justice and that is subject to public comment.

[63 FR 34594, June 25, 1998]

### § 802.71 Acquisitions by gift, intestate succession or devise, or by irrevocable trust.

Acquisitions resulting from a gift, intestate succession, testamentary disposition or transfer by a settlor to an irrevocable trust shall be exempt from the requirements of the act.

### § 802.80 Transitional rule for transactions investigated by the agencies.

§§ 801.2 and 801.50 shall not apply to any transaction that has been the subject of investigation by either the Federal Trade Commission or the Antitrust Division of the Department of Justice in which, prior to the effective date of that section, the reviewing agency obtained documentary material and information under compulsory process from all parties that would be required to submit a Notification and Report Form for Certain Mergers and Acquisitions under Section 801.50 but for this transitional rule.

[70 FR 11514, Mar. 8, 2005]

## PART 803—TRANSMITTAL RULES

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APPENDIX TO PART 803—ANTITRUST IMPROVEMENTS ACT NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS

AUTHORITY: 15 U.S.C. 18a(d).

SOURCE: 43 FR 33548, July 31, 1978, unless otherwise noted.

### § 803.1 Notification and Report Form.

(a) The notification required by the act shall be the Notification and Report Form set forth in the appendix to this part (803), as amended from time to time. All acquiring and acquired persons required to file notification by the act and these rules shall do so by completing and filing the Notification and Report Form, in accordance with the instructions thereon and these rules. The current version of the Form can be obtained at <http://www.ftc.gov> or <https://www.hsr.gov>.

(b) Any person filing notification may, in addition to the submissions required by this section, submit any other information or documentary material which such person believes will be helpful to the Federal Trade Commission and Assistant Attorney General in assessing the impact of the acquisition upon competition.

[43 FR 33548, July 31, 1978, as amended at 66 FR 8695, Feb. 1, 2001; 71 FR 35998, June 23, 2006]

### § 803.2 Instructions applicable to Notification and Report Form.

(a) The notification required by the act shall be filed by the preacquisition ultimate parent entity, or by any entity included within the person authorized by such preacquisition ultimate parent entity to file notification on its behalf. In the case of a natural person required by the act to file notification, such notification may be filed by his or her legal representative: *Provided however*, That notwithstanding §§ 801.1(c)(2) and 801.2, only one notification shall be filed by or on behalf of a natural person, spouse and minor children with respect to an acquisition as a result of which more than one such natural person will hold voting securities of the same issuer.

*Example:* Jane Doe, her husband and minor child collectively hold more than 50 percent

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of the shares of family corporation F. Therefore, Jane Doe (or her husband or minor child) is the “ultimate parent entity” of a “person” composed to herself (or her husband or minor child) and F; see paragraphs (a)(3), (b) and (c)(2) of § 801.1. If corporation F is to acquire corporation X, under this paragraph only one notification is to be filed by Jane Doe, her husband and minor child collectively.

(b) Except as provided in paragraph (b)(2) of this section and paragraph (c) of this section:

(1) Items 5–8 of the Notification and Report Form must be completed—

(i) By acquiring persons, with respect to all entities included within the acquiring person;

(ii) By acquired persons, in the case of an acquisition of assets, only with respect to the assets to be acquired;

(iii) By acquired persons, in the case of an acquisition of voting securities, with respect to only the issuer whose voting securities are being acquired, and all entities controlled by such issuer; and

(iv) By acquired persons, in the case of an acquisition of non-corporate interests, with respect to the unincorporated entity whose non-corporate interests are being acquired, and all entities controlled by such unincorporated entity; and

(v) By persons which are both acquiring and acquired persons, separately in the manner that would be required of acquiring and acquired persons under this paragraph, if different.

(2) For purposes of items 7 and 8 of the Notification and Report Form, the acquiring person shall regard the acquired person in the manner described in paragraphs (b)(1) (ii) and (iii) of this section.

*Example:* Person “A” is comprised of entities separately engaged in grocery retailing, auto rental, and coal mining. Person “B” is comprised of entities separately engaged in wholesale magazine distribution, auto rental and book publishing. “A” proposes to purchase 100 percent of the voting securities of “B”’s book publishing subsidiary. For purposes of item 5, under clause (b)(1)(i), “A” reports the activities of all its entities; under clause (b)(1)(iii), “B” reports only the operations of its book publishing subsidiary. For purposes of items 7 and 8, under paragraph (b)(2) of this section, “A” must regard “B” as consisting only of its book publishing subsidiary and must disregard the fact that “A”

and “B” are both engaged in the auto rental business.

(c) In response to items 5, 7, and 8 of the Notification and Report Form—

(1) Information shall be supplied only with respect to operations conducted within the United States; and

(2) Information need not be supplied with respect to assets or voting securities to be acquired, the acquisition of which is exempt from the requirements of the act.

(d) The term *dollar revenues*, as used in the Notification and Report Form, means value of shipments for manufacturing operations, and sales, receipts, revenues, or other appropriate dollar value measure for operations other than manufacturing, f.o.b. the plant or establishment less returns, after discounts and allowances and excluding freight charges and excise taxes. Dollar revenues including delivery may be supplied if delivery is an integral part of the sales price. Dollar revenues include interplant transfers.

(e) A person filing notification may incorporate by reference:

(1) To a previous filing, only documentary materials required to be filed in response to items 4(a) and 4(b) of the Notification and Report Form, which were previously filed by the same person and which are the most recent versions available; except that when the same parties file for a higher threshold no more than 90 days after having made filings with respect to a lower threshold, each party may incorporate by reference in the subsequent filing any documents or information in its earlier filing provided that the documents and information are the most recent available;

(2) To an Internet address directly linking to the document, only documents required to be filed in response to item 4(a) and in response to item 4(b) of the Notification and Report Form. If an Internet address is inoperative or becomes inoperative during the waiting period, or the document that is linked to it is incomplete, or the link requires payment to access the document, upon notification by the Commission or Assistant Attorney General, the parties must make these documents available to the agencies by

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either referencing an operative Internet address or by providing paper copies to the agencies as provided in § 803.10(c)(1) by 5 p.m. on the next regular business day. Failure to make the documents available, by the Internet or by providing paper copies, by 5 p.m. on the next regular business day, will result in notice of a deficient filing pursuant to § 803.10(c)(2).

(f) Filings made electronically, including documents or other attachments submitted as part of such filings, must comply with all format and size requirements set forth at <https://www.hsr.gov>. The use of any format or size not specified as acceptable, or any other failure to comply with the applicable format requirements, shall render the entire filing deficient within the meaning of § 803.10(c)(2).

[43 FR 33548, July 31, 1978, as amended at 48 FR 34438, July 29, 1983; 66 FR 8695, Feb. 1, 2001; 66 FR 23565, May 9, 2001; 70 FR 11514, Mar. 8, 2005; 70 FR 73372, Dec. 12, 2005; 71 FR 35998, June 23, 2006]

#### § 803.3 Statement of reasons for non-compliance.

A complete response shall be supplied to each item on the Notification and Report Form and to any request for additional information pursuant to section 7A(e) and § 803.20. Whenever the person filing notification is unable to supply a complete response, that person shall provide, for each item for which less than a complete response has been supplied, a statement of reasons for noncompliance. The statement of reasons for noncompliance shall contain all information upon which a person relies in explanation of its noncompliance and shall include at least the following:

(a) Why the person is unable to supply a complete response;

(b) What information, and what specific documents or categories of documents, would have been required for a complete response;

(c) Who, if anyone, has the required information, and specific documents or categories of documents; and a description of all efforts made to obtain such information and documents, including the names of persons who searched for required information and documents, and where the search was conducted. If

no such efforts were made, provide an explanation of the reasons why, and a description of all efforts necessary to obtain required information and documents;

(d) Where noncompliance is based on a claim of privilege, a statement of the claim of privilege and all facts relied on in support thereof, including the identity of each document, its author, addressee, date, subject matter, all recipients of the original and of any copies, its present location, and who has control of it.

[48 FR 34439, July 29, 1983]

#### § 803.4 Foreign persons refusing to file notification.

(a) In an acquisition to which § 801.30 does not apply, and in which no assets (other than investment assets) located in the United States and no voting securities of a United States issuer will be acquired directly or indirectly, if a foreign acquired person refuses to file notification, then any other person which is a party to the acquisition may file notification on behalf of the foreign person. Such notification shall constitute the notification required of the foreign person by the act and these rules.

(b) Any person filing on behalf of the foreign person pursuant to this section must state in the affidavit required by § 803.5(b) that such foreign person has refused to file notification and must explain all efforts made by the person filing on behalf of the foreign person to obtain compliance with the act and these rules by such foreign person.

(c) Any notification filed on behalf of a foreign person pursuant to this section must contain all information and documentary material reasonably available to the person filing on behalf of the foreign person which such foreign person would be required to provide. Whenever information or documentary material is not reasonably available, the person filing on behalf of the foreign person shall so indicate on the Notification and Report Form, and need not supply the statement of reasons for noncompliance required by § 803.3.

(d) Any foreign person on whose behalf notification has been filed by another person pursuant to this section

shall be a “person filing notification” for purposes of the act and these rules. Nothing in this section shall exempt a foreign person from the requirements of the act or these rules with respect to a request for additional information or an extension of the waiting period pursuant to section 7A(e) and these rules.

#### § 803.5 Affidavits required.

(a)(1) *Section 801.30 acquisitions.* For acquisitions to which § 801.30 applies, the notification required by the act from each acquiring person shall contain an affidavit, attached to the front of the notification, or attached as part of the electronic submission, attesting that the issuer whose voting securities are to be acquired has received notice in writing by certified or registered mail, by wire or by hand delivery, at its principal executive offices, of:

(i) The identity of the acquiring person;

(ii) The fact that the acquiring person intends to acquire voting securities of the issuer;

(iii) The specific classes of voting securities of the issuer sought to be acquired; and if known, the number of securities of each such class that would be held by the acquiring person as a result of the acquisition or, if the number is not known, the specific notification threshold that the acquiring person intends to meet or exceed; and, if designated by the acquiring person, a higher threshold for additional voting securities it may hold in the year following the expiration of the waiting period;

(iv) The fact that the acquisition may be subject to the act, and that the acquiring person will file notification under the act with the Federal Trade Commission and Assistant Attorney General;

(v) The anticipated date of receipt of such notification under § 803.10(c); and

(vi) The fact that the person within which the issuer is included may be required to file notification under the act.

(2) The affidavit required by this paragraph must also state the good faith intention of the person filing notification to make the acquisition, and, in the case of a tender offer, that the

intention to make the tender offer has been publicly announced.

*Example:* 1. This paragraph permits the tender offeror to file notification at any time after the intention to make the tender offer has been publicly announced.

In examples 2-5 assume that one percent of B's shares are valued at \$15 million.

2. “A” holds 100,000 shares of the voting securities of Company B. “A” has a good faith intention to acquire an additional 900,000 shares of Company B's voting securities. “A” states in its notice to B, *inter alia*, that as a result of the acquisition it will hold 1,000,000 shares. If 1,000,000 shares of Company B represent 20 percent of Company B's outstanding voting securities, the statement will be deemed by the enforcement agencies a notification for the \$100 million threshold (as adjusted).

3. Company A intends to acquire voting securities of Company B. “A” does not know exactly how many shares it will acquire, but it knows it will definitely acquire in excess of \$50 million (as adjusted) worth and may acquire 50 percent of Company B's shares. “A”'s notice to the acquired person would meet the requirements of Sec. 803.5(a)(1)(iii) if it states, *inter alia*, either: “Company A has a present good faith intention to acquire in excess of \$50 million (as adjusted) of the outstanding voting securities of Company B, and depending on market conditions, may acquire more of the voting securities of Company B and thus designates the 50 percent threshold,” or “Company A has a present good faith intention to acquire in excess of \$50 million (as adjusted) of the outstanding voting securities of Company B, and depending on market conditions may acquire 50 percent or more of the voting securities of Company B.” The Commission would deem either of these statements as intending to give notice for the 50 percent threshold.

4. “A” states, *inter alia*, that, “depending on market conditions, it may acquire 100 percent of the shares of B.” “A”'s notice does not comply with § 803.5 because it does not state an intent to meet or exceed any notification threshold. “A”'s filing will be considered deficient within the meaning of § 803.10(c)(2).

5. “A” states, *inter alia*, that it has commenced a tender offer for “up to 55 percent of the outstanding voting securities of Company B.” “A”'s notice does not comply with § 803.5 because use of the term “up to” does not state an intent to meet or exceed any notification threshold. The filing will therefore be considered deficient within the meaning of § 803.10(c)(2).

(3) The affidavit required by this paragraph must have attached to it a copy of the written notice received by

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the acquired person pursuant to paragraph (a)(1) of this section. For electronic filing, an electronic copy of the written notice must be attached as part of the electronic submission.

(b) *Non-section 801.30 acquisitions.* For acquisitions to which § 801.30 does not apply, the notification required by the act shall contain an affidavit, attached to the front of the notification, or attached as part of the electronic submission, attesting that a contract, agreement in principle or letter of intent to merge or acquire has been executed, and further attesting to the good faith intention of the person filing notification to complete the transaction.

[43 FR 33548, July 31, 1978, as amended at 48 FR 34439, July 29, 1983; 52 FR 7082, Mar. 6, 1987; 66 FR 8695, Feb. 1, 2001; 70 FR 4996, Jan. 31, 2005; 71 FR 35998, June 23, 2006]

### § 803.6 Certification.

(a) The notification required by the act shall be certified:

(1) In the case of a partnership, by any general partner thereof;

(2) In the case of a corporation, by any officer or director thereof;

(3) In the case of a person lacking officers, directors, or partners, by any individual exercising similar functions;

(4) In the case of a natural person, by such natural person or his or her legal representative;

(5) In the case of the estate of a deceased natural person, by any duly authorized legal representative of such estate.

(b) Additional information or documentary material submitted in response to a request pursuant to section 7A(e) and § 803.20 shall be accompanied by a certification in the format appearing at the end of the Notification and Report Form, completed in accordance with paragraph (a) of this section by the person or individual to whom it was directed.

(c) In all cases, the certifying individual must possess actual authority to make the certification on behalf of the person filing notification.

[43 FR 33548, July 31, 1978, as amended at 48 FR 34429, July 29, 1983]

### § 803.7 Expiration of notification.

(a) *One year after waiting period expired.* Notification with respect to an

acquisition shall expire 1 year following the expiration of the waiting period. If the acquiring person's holdings do not, within such time period, meet or exceed the notification threshold with respect to which the notification was filed, the requirements of the act must thereafter be observed with respect to any notification threshold not met or exceeded.

*Example:* "A" files notification that in excess of \$100 million (as adjusted) of the voting securities of corporation B are to be acquired. One year after the expiration of the waiting period, "A" has acquired less than \$100 million (as adjusted) of B's voting securities. Although § 802.21 will permit "A" to purchase any amount of B's voting securities short of \$100 million (as adjusted) within 5 years from the expiration of the waiting period, A's holdings may not meet or exceed the \$100 million (as adjusted) notification threshold without "A" and "B" again filing notification and observing a waiting period.

(b) *Upon failure to comply with request for additional information.* An acquiring person's notification and, in the case of an acquisition to which § 801.30 does not apply, an acquired person's notification, shall expire eighteen months following the date of receipt of such person's notification if a request for additional information or documentary material remains outstanding to such person (or entities included therein, officers, directors, partners, agents or employees thereof), without a certification as required by § 803.6(b), on such date. If either person's notification expires pursuant to this paragraph, both parties must file a new notification in order to carry out the transaction.

*Example:* A files notification on January 15 of Year 1 to acquire voting securities of B. On February 15 of Year 1, prior to expiration of the waiting period, requests for additional information or documentary material are issued to A and B. Before A supplies the information and documentary material requested, business conditions change, and A and B decide not to go forward with the transaction. A does not withdraw its filing and takes the position that it will comply with the request for additional information and documentary material if and when the proposed transaction is ever revived. A's notification expires July 15 of Year 2, eighteen months following the date of receipt of its notification. If A and B wish to revive their

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transaction, both parties must file a new notification and observe the waiting period in order to carry out the transaction.

[70 FR 73372, Dec. 12, 2005]

### § 803.8 Foreign language documents.

(a) Whenever at the time of filing a Notification and Report Form there is an English language outline, summary, extract or verbatim translation of any information or of all or portions of any documentary materials in a foreign language required to be submitted by the act or these rules, all such English language versions shall be filed along with the foreign language information or materials.

(b) Documentary materials or information in a foreign language required to be submitted in responses to a request for additional information or documentary material shall be submitted with verbatim English language translations, or all existing English language versions, or both, as specified in such request.

[48 FR 34440, July 29, 1983]

### § 803.9 Filing fee.

(a) Each acquiring person shall pay the filing fee required by the act to the Federal Trade Commission, except as provided in paragraphs (b) and (c) of this section. No additional fee is to be submitted to the Antitrust Division of the Department of Justice.

*Examples:* 1. “A” wishes to acquire voting securities issued by B, where the greater of the acquisition price and the market price is in excess of \$50 million (as adjusted) but less than \$100 million (as adjusted) pursuant to § 801.10. When “A” files notification for the transaction, it must indicate the \$50 million (as adjusted) threshold and pay a filing fee of \$45,000 because the aggregate total amount of the acquisition is less than \$100 million (as adjusted), but greater than \$50 million (as adjusted).

2. “A” acquires less than \$50 million (as adjusted) of assets from “B.” The parties meet the size of person criteria of Section 7A(a)(2)(B), but the transaction is not reportable because it does not exceed the \$50 million (as adjusted) size of transaction threshold of that provision. Two months later “A” acquires additional assets from “B” valued at between \$50 million (as adjusted) and \$100 million (as adjusted). Pursuant to the aggregation requirements of § 801.13(b)(2)(ii), the aggregate total amount of “B’s” assets that “A” will hold as a result of the second acquisition

is in excess of \$100 million (as adjusted). Accordingly, when “A” files notification for the second transaction, “A” must indicate the \$100 million (as adjusted) threshold and pay a filing fee of \$125,000 because the aggregate total amount of the acquisition is less than \$500 million (as adjusted), but not less than \$100 million (as adjusted).

3. “A” acquires in excess of \$50 million (as adjusted) of voting securities issued by B after submitting its notification and \$45,000 filing fee and indicates the \$50 million (as adjusted) threshold. Two years later, “A” files to acquire additional voting securities issued by B valued at \$50 million (as adjusted) because it will exceed the next higher reporting threshold (*see* §§ 801.1(h)). Assuming the second transaction is reportable and the value of its initial holdings is unchanged (*see* §§ 801.13(a)(2) and 801.10(c)), the provisions of § 801.13(a)(1) require that “A” report that the value of the second transaction is in excess of \$100 million (as adjusted) because “A” must aggregate previously acquired securities in calculating the value of B’s voting securities that it will hold as a result of the second acquisition. “A” should pay a filing fee of \$125,000.

4. “A” signs a contract with a stated purchase price in excess of \$100 million (as adjusted), subject to adjustments, to acquire all of the assets of “B.” If the amount of adjustments can be reasonably estimated, the acquisition price—as adjusted to reflect that estimate—is determined. If the amount of adjustments cannot be reasonably estimated, the acquisition price is undetermined. In either case the board or its delegate must also determine in good faith the fair market value. (§ 801.10(b) states that the value of an asset acquisition is to be the fair market value or the acquisition price, if determined and greater than fair market value.) “A” files notification and submits a \$45,000 filing fee. “A”’s decision to pay that fee may be justified on either of two bases, and “A” should submit an attachment to the Notification and Report Form explaining the valuation. First, “A” may have concluded that the acquisition price can be reasonably estimated to be less than \$100 million (as adjusted), because of anticipated adjustments—*e.g.*, based on due diligence by “A’s” accounting firm indicating that one third of the inventory is not saleable. If fair market value is also determined in good faith to be less than \$100 million (as adjusted), the \$45,000 fee is appropriate. Alternatively, “A” may conclude that because the adjustments cannot reasonably be estimated, acquisition price is undetermined. If so, “A” would base the valuation on the good faith determination of fair market value. The acquiring party’s execution of the Certification also attests to the good faith valuation of the value of the transaction.

5. “A” contracts to acquire all of the assets of “B” for in excess of \$500 million (as adjusted). The assets include hotels, office buildings, and rental retail property, all of which are exempted by § 802.2. Section 802.2 directs that these assets are exempt from the requirements of the act and that reporting requirements for the transaction should be determined by analyzing the remainder of the acquisition as if it were a separate transaction. Furthermore, § 801.15(a)(2) states that those exempt assets are never held as a result of the acquisition. Accordingly, the aggregate amount of the transaction is in excess of \$100 million (as adjusted), but less than \$500 million (as adjusted). “A” will be liable for a filing fee of \$125,000, rather than \$280,000, because the value of the transaction is not less than \$100 million (as adjusted) but less than \$500 million (as adjusted). Note, however, that “A” must include an attachment in its Notification and Report Form setting out both the in excess of \$500 million (as adjusted) total purchase price and the basis for its determination that the aggregate total amount of the acquisition under the rules is between \$100 million (as adjusted) and \$500 million (as adjusted) rather than in excess of \$500 million (as adjusted), in accordance with the Instructions to the Form.

6. “A” acquires coal reserves from “B” valued at \$150 million. No notification or filing fee is required because the acquisition is exempted by § 802.3(b). Three months later, A proposes to acquire additional coal reserves from “B” valued at \$500 million (as adjusted). This transaction is subject to the notification requirements of the act because the value of the acquisition exceeds the \$200 million limitation on the exemption in § 802.3(b). As a result of § 801.13(b)(2)(ii), the prior \$150 million acquisition must be added because the additional \$500 million (as adjusted) of coal reserves were acquired from the same person within 180 days of the initial acquisition. Because aggregating the two acquisitions exceeds the \$200 million exemption limitation, § 801.15(b) directs that “A” will also hold the previously exempt \$150 million acquisition; thus, the aggregate amount held as a result of the \$500 million (as adjusted) acquisition exceeds \$500 million (as adjusted). Accordingly, “A” must file notification to acquire the coal reserves valued in excess of \$500 million (as adjusted) and pay a filing fee of \$280,000.

7. “A” intends to acquire 20 percent of the voting securities of B, a non-publicly traded issuer. The agreed upon acquisition price is \$99 million subject to post-closing adjustments of up to plus or minus \$2 million. “A” estimates that the adjustments will be minus \$1 million. In this example, since “A” is able in good faith to reasonably estimate the adjustments to the agreed-on price, the acquisition price is deemed to be determined

and the appropriate filing fee threshold is \$50 million. Even if the post-closing adjustments cause the final price actually paid to exceed \$100 million, “A” would be deemed to hold \$98 million in B voting securities as a result of this acquisition. Note, however, since the potential acquisition price subject to adjustments could have exceeded the \$100 million threshold (*e.g.*, “straddles two filing fee thresholds”), an explanation of why the lower threshold was indicated should be attached. Also note that any additional acquisition by “A” of B voting stock (if the value of the stock currently held by “A” is \$100 million or more) will cause “A” to cross the \$100 million threshold and another filing and the appropriate fee will be required.

8. “A” intends to make a cash tender offer for a minimum of 50 percent plus one share of the voting securities of B, a non-publicly traded issuer, but will accept up to 100 percent of the shares if they are tendered. There are 12 million shares of B voting stock outstanding and the tender offer price is \$10 per share. In this instance, since there is no cap on the number of shares that can be tendered, the value of the transaction will be the value of 100 percent of B’s voting securities, and “A” must pay the \$125,000 fee for the \$100 million filing fee threshold. Note that if the tender offer had been for a maximum of 50 percent plus one share the value of the transaction would be \$60 million, and the appropriate fee would be \$45,000, based on the \$50 million filing fee threshold. This would be true even if the tender offer were to be followed by a merger which would be exempt under Section 7A(c)(3),

(b) For a transaction described by § 801.2(d)(2)(iii), the parties shall pay only one filing fee. In accordance with § 801.2(d)(2)(iii), both parties to a consolidation are acquiring and acquired persons and must submit a Notification and Report Form where the transaction meets the reporting requirements of that act; however, only one filing fee is required in connection with such a transaction, and is payable by either party to the transaction. The filing fee is based on the greater of the two sizes of transaction in the consolidation.

(c) For a reportable transaction in which the acquiring entity has two ultimate parent entities, both ultimate parent entities are acquiring persons; however, if the responses for both ultimate parent entities would be the same for item 5 of the Notification and Report Form, only one filing fee is required in connection with the transaction.

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(d) *Manner of payment.* Fees may be paid by United States postal money order, bank money order, bank cashier's check, certified check or by electronic wire transfer (EWT). The fee must be paid in U.S. currency.

(1) Fees paid by money order or check shall be made payable to the "Federal Trade Commission," omitting the name or title of any official of the Commission, and shall be submitted to the Premerger Notification Office of the Federal Trade Commission along with the Notification and Report Form.

(2) Fees paid by EWT shall be deposited to the Treasury's account at the New York Federal Reserve Bank. Specific instructions for making EWT payments are contained in the Instructions to the Notification and Report Form.

(e) *Refunds.* Except as provided in this paragraph, no filing fee received by the Commission will be returned to the payer and no part of the filing fee shall be refunded. The filing fee shall be refunded only if the Commission's staff determines, based on the information and representations contained in the filing person's notification, that premerger notification was not required by the act. Once the Commission's staff has determined that the notification was required, the filing fee shall not be refunded even if it appears at the time of consummation that the transaction does not meet the reporting requirements established in the act.

[66 FR 8695, Feb. 1, 2001, as amended at 68 FR 2431, Jan. 17, 2003; 70 FR 4997, Jan. 31, 2005]

### § 803.10 Running of time.

(a) *Beginning of waiting period.* The waiting period required by the act shall begin on the date of receipt of the notification required by the act, in the manner provided by these rules (or, if such notification is not completed, the notification to the extent completed and a statement of the reasons for such noncompliance in accordance with § 803.3) from:

(1) In the case of acquisitions to which § 801.30 applies, the acquiring person;

(2) In the case of the formation of a corporation covered by Sec. 801.40 or an

unincorporated entity covered by Sec. 801.50, all persons contributing to the formation of the joint venture or other corporation that are required by the act and these rules to file notification;

(3) In the case of all other acquisitions, all persons required by the act and these rules to file notification.

(b) *Expiration of waiting period.* (1) Subject to paragraph (b)(3) of this section, for purposes of Section 7A(b)(1)(B), the waiting period shall expire at 11:59 p.m. Eastern Time on the 30th (or in the case of a cash tender offer or of an acquisition covered by 11 U.S.C. 363(b), the 15th) calendar day (or if § 802.23 applies, such other day as that section may provide) following the beginning of the waiting period as determined under paragraph (a) of this section, unless extended pursuant to Section 7A(e) and § 803.20, or Section 7A(g)(2), or unless terminated pursuant to Section 7A(b)(2) and § 803.11.

(2) Unless further extended pursuant to Section 7A(g)(2), or terminated pursuant to Section 7A(b)(2) and § 803.11, any waiting period which has been extended pursuant to Section 7A(e)(2) and § 803.20 shall, subject to paragraph (b)(3) of this section, expire at 11:59 p.m. Eastern Time—

(i) On the 30th (or, in the case of a cash tender offer or of an acquisition covered by 11 U.S.C. 363(b), the 10th) day following the date of receipt of all additional information or documentary material requested from all persons to whom such requests have been directed (or, if a request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance in accordance with § 803.3), by the Federal Trade Commission or Assistant Attorney General, whichever requested additional information or documentary material, at the office designated in paragraph (c) of this section, or

(ii) As provided in paragraph (b)(1) of this section, whichever is later.

(3) If any waiting period would expire on a Saturday, Sunday, or legal public holiday (as defined in 5 U.S.C. 6103(a)) the waiting period shall be extended to 11:59 p.m. Eastern Time of the next regular business day.



## § 803.11

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(c)(1) *Date of receipt and means of delivery.* For purposes of this section, these procedures shall apply.

(i) For paper copy filings, the date of receipt shall be the date on which delivery is effected to the designated offices (Premerger Notification Office, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, and Director of Operations, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue, NW., Room #3335, Washington, DC 20530) during normal business hours. Delivery should be effected directly to the designated offices, either by hand or by certified or registered mail. In the event one or both of the delivery sites are unavailable, the FTC and DOJ may designate alternate sites for delivery of the filing. Notification of the alternate delivery sites will normally be made through a press release and, if possible, on the <http://www.ftc.gov> and <https://www.hsr.gov> Web sites.

(ii) For electronic filings, the date of receipt shall be the date on which delivery of the electronic filing package is effected to the server maintained by the FTC for the purpose of receiving electronic filings.

(iii) For electronic filings with paper copy submission of all attachments, the date of receipt shall be either the date on which delivery of the electronic filing package is effected to the Federal Trade Commission's server or the date on which delivery of the attachments is effected to the designated offices as provided in paragraph (c)(1)(i) of this section, whichever is later.

(iv) Delivery effected after 5 p.m. eastern time on a business day, or at any time on any day other than a business day, shall be deemed effected on the next following business day. If delivery of all required filings to all offices required to receive such filings is not effected on the same date, the date of receipt shall be the latest of the dates on which delivery is effected.

*Example:* In an acquisition other than a tender offer, assume that requests for additional information are issued to both the acquiring and acquired persons on the 26th day of the waiting period. One person submits the additional information on the 35th day, while the other responds on the 44th day. Under this section, the waiting period expires thirty days following the last receipt of

additional information, that is, it expires on the 74th day (unless that day is a Saturday, Sunday or legal public holiday).

(2) *Deficient filings.* If notification or a response to a request for additional information or documentary material received by the Commission or Assistant Attorney General does not comply with these rules, the Commission or the Assistant Attorney General shall promptly notify the person filing such notification or response of the deficiencies in such filing, and the date of receipt shall be the date on which a filing which complies with these rules is received.

[43 FR 33548, July 31, 1978; 43 FR 36054, Aug. 15, 1978, as amended at 52 FR 7083, Mar. 6, 1987; 66 FR 8696, Feb. 1, 2001; 70 FR 11514, Mar. 8, 2005; 71 FR 35998, June 23, 2006]

### § 803.11 Termination of waiting period.

(a) Except as provided in paragraph (c) of this section, no waiting period shall be terminated pursuant to section 7A(b)(2) unless—

(1) All notifications required to be filed with respect to the acquisition by the act and these rules (or, if such notification is not completed, the notification to the extent completed and a statement of the reasons for such non-compliance in accordance with § 803.3) have been received,

(2) It has been determined that no additional information or documentary material pursuant to section 7A(e) and § 803.20 will be requested, or, if such additional information or documentary material has been requested, it (or, if a request is not fully complied with, the information and documentary material submitted and a statement of the reasons for such noncompliance in accordance with § 803.3) has been received, and

(3) The Federal Trade Commission and the Assistant Attorney General have concluded that neither intends to take any further action within the waiting period.

(b) Any request for additional information or documentary material pursuant to section 7A(e) and § 803.20 shall constitute a denial of all pending requests for termination of the waiting period.

(c) The Federal Trade Commission and the Assistant Attorney General may in their discretion terminate a

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## § 803.20

waiting period upon the written request of any person filing notification or, notwithstanding paragraph (a) of this section, sua sponte. A request for termination of the waiting period shall be sent to the offices designated in §803.10(c). Termination shall be effective upon notice to any requesting person by telephone, and such notice shall be given as soon as possible. Such notice shall also be confirmed in writing to each person which has filed notification, and notice thereof shall be published in the FEDERAL REGISTER in accordance with section 7A(b)(2). The Federal Trade Commission and the Assistant Attorney General also may use other means to make the termination public, prior to publication in the FEDERAL REGISTER in a manner that will make the information equally accessible to all members of the public.

[43 FR 33548, July 31, 1978, as amended at 54 FR 21427, May 18, 1989]

### § 803.20 Requests for additional information or documentary material.

(a)(1) *Persons and individuals subject to request.* Pursuant to section 7A(e)(1), the submission of additional information or documentary material relevant to the acquisition may be required from one or more persons required to file notification, and, with respect to each such person, from one or more entities included therein, or from one or more officers, directors, partners, agents, or employees thereof, if so required by the same request.

*Example:* A request for additional information may require a corporation and, in addition, a named officer or employee to provide certain information or documents, if both the corporation and the officer or employee are named in the same request. See subparagraph (b)(3) of this section.

(2) All the information and documentary material required to be submitted pursuant to a request under paragraph (a)(1) of this section shall be supplied to the Commission or to the Assistant Attorney General, whichever made such request, at such location as may be designated in the request, or, if no such location is designated, at the office designated in §803.10(c). If such request is not fully complied with, a statement of reasons for noncompliance pursuant to §803.3 shall be pro-

vided for each item or portion of such request which is not fully complied with.

(b)(1) *Who may require submission.* A request for additional information or documentary material with respect to an acquisition may be issued by the Federal Trade Commission or its designee, or by the Assistant Attorney General or his or her designee, but not by both to the same person, any entities included therein, or any officers, directors, partners, agents, or employees of that person.

(2) *When request effective.* A request for additional information or documentary material shall be effective—

(i) In the case of a written request, upon receipt of the request by the ultimate parent entity of the person to which the request is directed (or, if another entity included within the person filed notification pursuant to §803.2(a), then by such entity), within the original 30-day (or, in the case of a cash tender offer or of an acquisition covered by 11 U.S.C. 363(b), 15-day) waiting period (or, if §802.23 applies, such other period as that section provides); or

(ii) In the case of a written request, upon notice of the issuance of such request to the person to which it is directed within the original 30-day (or, in the case of a cash tender offer or of an acquisition covered by 11 U.S.C. 363(b), 15-day) waiting period (or, if §802.23 applies, such other period as that section provides), provided that written confirmation of the request is mailed to the person to which the request is directed within the original 30-day (or, in the case of a cash tender offer or of an acquisition covered by 11 U.S.C. 363(b), 15-day) waiting period (or, if §802.23 applies, such other period as that section provides). Notice to the person to which the request is directed may be given by telephone or in person. The person filing notification shall keep a designated individual reasonably available during normal business hours throughout the waiting period at the telephone number supplied in the Notification and Report Form. Notice of a request for additional information or documentary material need be given by telephone only to that individual or to the individual designated in accordance with paragraph (b)(2)(iii) of this

section. Upon the request of the individual receiving notice of the issuance of such a request, the full text of the request will be read. The written confirmation of the request shall be mailed to the ultimate parent entity of the person filing notification, or if another entity within the person filed notification pursuant to § 803.2(a), then to such entity.

(iii) When the individual designated in accordance with paragraph (b)(2)(ii) of this section is not located in the United States, the person filing notification shall designate an additional individual located within the United States to be reasonably available during normal business hours throughout the waiting period through a telephone number supplied on the certification page of the Notification and Report Form. This individual shall be designated for the limited purpose of receiving notification of the issuance of requests for additional information or documentary material in accordance with the procedure described in paragraph (b)(2)(ii) of this section.

(3) *Requests to natural persons.* A request addressed to an individual, requiring that he or she submit additional information or documentary material, shall be transmitted to the person filing notification of which the individual is an ultimate parent entity, officer, director, partner, agent or employee, and shall be effective as to that individual when effective as to the person filing notification pursuant to paragraph (b)(2) of this section. A written copy of the request shall also be delivered to the individual by hand, or by registered or certified mail at his or her home or business address.

*Example:* A designee of the Federal Trade Commission sends, by certified letter which is received within the 30-day waiting period, a written request for additional information to corporation W, the ultimate parent entity within a person which filed notification. The request is effective under clause (b)(2)(i). If the letter also addressed a request for documentary material to the secretary of corporation W, a named individual, under paragraph (b)(3), the request would likewise be effective as to the individual upon receipt of the letter by W. In the latter case, the Federal Trade Commission also would send a copy of the request to the Secretary of the corporation at his or her home or business address.

(c) *Waiting period extended.* (1) During the time period when a request for additional information or documentary material remains outstanding to any person other than either:

(i) In the case of a tender offer, the person whose voting securities are sought to be acquired by the tender offeror (or any officer, director, partner, agent or employee thereof), or

(ii) In the case of an acquisition covered by 11 U.S.C. 363(b), the acquired person, the waiting period shall remain in effect, even though the waiting period would have expired (see § 803.10(b)) if no such request had been made.

(2) A request for additional information or documentary material to any person other than either:

(i) In the case of a tender offer, the person whose voting securities are being acquired pursuant to the tender offer (or any officer, director, partner, agent or employee thereof), or

(ii) In the case of an acquisition covered by 11 U.S.C. 363(b), the acquired person, shall in every instance extend the waiting period for a period of 30 (or, in the case of a cash tender offer or of an acquisition covered by 11 U.S.C. 363(b), 10) calendar days from the date of receipt (as determined under § 803.10) of the additional information or documentary material requested.

*Example:* Acquiring person “A” makes a non-cash tender offer for voting securities of corporation “X”, and files notification. Under § 801.30, the waiting period begins upon filing by “A,” and “X” must file within 15 days thereafter (10 days if it were a cash tender offer). Assume that before the end of the waiting period, the Assistant Attorney General issues a request for additional information to “A” and “X.” Since the transaction is a non-cash tender offer, the waiting period is extended for 30 days (10 days if it were a cash tender offer) beyond the date on which “A” responds. Note that under § 803.21, even though the waiting period is not affected by the second request to “X” or by “X” supplying the requested information, “X” is obliged to respond to the request within a reasonable time. Nevertheless, the Federal Trade Commission and Assistant Attorney General could, notwithstanding the pendency of the request for additional information, terminate the waiting period sua sponte pursuant to § 803.11(c).

(d)(1) *Identification of requests.* Every request for additional information or documentary material shall be clearly

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identified as such, whether communicated in person, by telephone or in writing, and shall clearly identify the person, entity or entities, or individual(s) to which it is addressed.

(2) *Request for clarification.* No request for clarification or amplification of a response to any item on the Notification and Report Form, whether communicated in person, by telephone or in writing, shall be considered a request for additional information or documentary material within the meaning of section 7A(e) and this section.

[43 FR 33548, July 31, 1978, as amended at 48 FR 34441, July 29, 1983; 66 FR 8697, Feb. 1, 2001; 68 FR 2431, Jan. 17, 2003]

### **§ 803.21 Additional information shall be supplied within reasonable time.**

All additional information or documentary material requested pursuant to section 7A(e) and § 803.20 (or, if such request is not fully complied with, the information or documentary material submitted and a statement of the reasons for such noncompliance in accordance with § 803.3) shall be supplied within a reasonable time.

### **§ 803.30 Formal and informal interpretations of requirements under the Act and the rules.**

(a) The Commission staff may consider requests for formal or informal interpretations as to the obligations under the act and these rules of any party to an acquisition. A request for a formal interpretation shall be made in writing to the offices designated in § 803.10(c), and shall state: (1) all facts

which the applicant believes to be material, (2) the reasons why the requirements of the act are or may be applicable and (3) the question(s) that the applicant wishes resolved. The Commission staff may, in its discretion, render a formal or informal response to any request, however made, or may decline to render such advice.

(b) In the sole discretion of the staff, any request for interpretation may be referred to the Commission.

(c) Formal interpretations by the Commission staff or by the Commission shall be rendered with the concurrence of the Assistant Attorney General or his or her designee.

(d) Any formal interpretation shall be without prejudice to the right of either the Commission or the Assistant Attorney General to rescind any such interpretation rendered pursuant to this section. In the event of such rescission, the party which requested the interpretation shall be so notified in writing.

(e) The Commission shall publish a summary of formal interpretations by the Commission, and any rescissions thereof, in the FEDERAL REGISTER.

### **§ 803.90 Separability.**

If any provision of the rules in this subchapter (H) (including the Notification and Report Form) or the application of any such provision to any person or circumstances is held invalid, neither the other provisions of the rules nor the application of such provision to other persons or circumstances shall be affected thereby.

## APPENDIX TO PART 803

**ANTITRUST IMPROVEMENTS ACT  
NOTIFICATION AND REPORT FORM  
for Certain Mergers and Acquisitions**

**INSTRUCTIONS**

**GENERAL**

The Notification and Report Form ("the Form") is required to be submitted pursuant to § 803.1(a) of the premerger notification rules ("the rules"). An electronic version of the Form is available at <https://www.hsr.gov> and may be used for the direct electronic submission of filings or used to generate a print version of the Form for paper copy submission.

These instructions specify the information which must be provided in response to the items on the Form. The completed Form, together with all documentary attachments, are to be filed with the Federal Trade Commission and the Department of Justice.

Persons providing responses on attachment pages rather than on the Form must submit a complete set of attachment pages with each copy of the Form.

The term "documentary attachments" refers to materials supplied in responses to Item 3(d), Item 4 and to submissions pursuant to §§ 803.1(b) and 803.11 of the rules.

**Information**—The central office for information and assistance concerning the rules, 16 CFR Parts 801-803, and the Form is Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, phone (202) 326-3100, e-mail HSRHelp@hsr.gov. Program information and the electronic version of the Form can be found at <https://www.hsr.gov>.

**Definitions**—The definitions and other provisions governing this Form are set forth in the rules, 16 CFR Parts 801-803. The governing statute, the rules, and the Statement of Basis and Purpose for the rules are set forth at 43 FR 33450 (July 31, 1978), 44 FR 66781 (November 22, 1979), 48 FR 34427 (July 29, 1983), 61 FR 13688 (March 28, 1996), 66 FR 8693 (February 1, 2001), 70 FR 4994 (January 31, 2005), 70 FR 11513 (March 8, 2005), 70 FR 73369 (December 12, 2005), 70 FR 77312 (December 30, 2005), 71 FR 2943 (January 18, 2006), and Pub. L. No. 106-533, 114 Stat. 2762.

**Affidavit**—Attach the affidavit required by § 803.5 to the Form. Affidavits are not required if the person filing notification is an acquired person in a transaction covered by § 801.30. (See § 803.5(a)).

For acquisitions to which § 801.30 does not apply, the affidavit must attest that a contract, agreement in principle or letter of intent to merge or acquire has been executed, and further attest to the good faith intention of the person filing notification to complete the transaction.

For acquisitions to which § 801.30 does apply, the affidavit must also attest that the issuer whose voting securities are to be acquired has received notice; the identity of the acquiring person and the fact that the acquiring person

intends to acquire voting securities of the issuer; the specific notification threshold that the acquiring person intends to meet or exceed; the fact that the acquisition may be subject to the act, and that the acquiring person will file notification under the act; the anticipated date of receipt of such notification; and the fact that the person within which the issuer is included may be required to file notification under the act.

In the case of a tender offer the affidavit must also attest that the intention to make the tender offer has been publicly announced.

The language found in 28 U.S.C. § 1746 relating to unsworn declarations under penalty of perjury may be used instead of notarization of the affidavit.

**Responses**—Each answer should identify the item to which it is addressed. Use the reverse side of the corresponding answer sheet or attach separate additional sheets as necessary in answering each item. Each additional sheet should identify at the top of the page the item to which it is addressed. Voluntary submissions pursuant to § 803.1(b) should also be identified.

For electronic filings, all items are automatically identified within the Form. Electronic attachments and endnotes may be appended to the Form for any item prior to submission.

Enter the name of the person filing notification appearing in Item 1(a) on page 1 of the Form and the date on which the Form is completed at the top of each page of the Form, at the top of any sheets attached to complete the response to any item, and at the top of the first or cover page of each documentary attachment. For electronic filings, items 1(a) and 1(b) must be completed before proceeding to pages 2-15 of the Form. Entering the date on page 2 will automatically fill out the date on all other pages of the Form.

If unable to answer any item fully, give such information as is available and provide a statement of reasons for non-compliance as required by § 803.3. If exact answers to any item cannot be given, enter best estimates and indicate the sources or bases of such estimates. All financial information should be expressed in millions of dollars rounded to the nearest one-tenth of a million dollars. Estimated data should be followed by the notation, "est." For electronic filings, add an endnote with the notation, "est." to any item where data is estimated.

**Year**—All references to "year" refer to calendar year. If the data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period which most nearly corresponds to the calendar year specified. References to "most recent year" mean the most recent calendar or fiscal year for which the requested information is available.

**Privacy Act Statement**—Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. Our authority to collect Social Security numbers is 31 U.S.C. 7701. The primary use of information submitted on this Form is to determine whether the reported merger or acquisition may violate the antitrust laws. Taxpayer information is collected, used, and may be shared with other agencies and contractors for payment processing, debt

collection and reporting purposes. Furnishing the information on the Form is voluntary. Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to \$11,000 per day. We also may be unable to process the Form unless you provide all of the requested information.

**North American Industry Classification System (NAICS) Data-**

The Form requests information regarding dollar revenues and lines of commerce at three levels with respect to operations conducted within the United States. (See § 803.2(c)(1).) All persons must submit certain data at the 6-digit NAICS national industry code level. To the extent that dollar revenues are derived from *manufacturing operations* (NAICS Sectors 31-33), data must also be submitted at the 7-digit NAICS product class and 10-digit NAICS product code levels. The term "dollar revenues" is defined in § 803.2(d).

**References-**In reporting information by 6-digit NAICS industry code refer to the *North American Industry Classification System - United States, 2002 (2002 NAICS Manual)* published by the Executive Office of the President, Office of Management and Budget. In reporting information by 7-digit NAICS product class and 10-digit NAICS product code refer to the *2002 Numerical List of Manufactured and Mineral Products (EC02M31R-NL)* published by the Bureau of the Census. Information regarding NAICS also is available at [www.census.gov](http://www.census.gov).

**Thresholds-**Filing fee and notification thresholds are adjusted annually pursuant to Section 7A(a)(2) of the Clayton Act based on the change in gross national product, in accordance with Section 8(a)(5). The current threshold values can be found at [www.ftc.gov](http://www.ftc.gov).

**Items 5, 7, 8-**Supply information only with respect to operations conducted within the United States, including its commonwealths, territories, possessions and the District of Columbia. (See §§ 801.1(k); 803.2(c)(1).)

Information need not be supplied regarding assets or voting securities currently being acquired, when the acquisition is exempt under the statute or rules. (See § 803.2(c)(2).)

The acquired person should limit its response in the case of an acquisition of assets, to the assets being sold, and in the case of an acquisition of voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such issuer. Separate responses may be required where a person is both acquiring and acquired. (See § 803.2(b) and (c).)

**Filing-** Filers have three options: (1) Complete and return two copies (with one notarized original affidavit and certification and one set of documentary attachments) of this Notification and Report Form to the Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Three copies (with one set of documentary attachments) should be sent to: Director of Operations, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue, N.W., Room #3335, Washington, D.C. 20530. (For FEDEX airmails to the Department of Justice, do not use the 20530 zip code; use zip code 20004); (2) Complete the electronic version of the Form and submit the completed Form with all electronic attachments as directed at <https://www.hsr.gov>; or (3) Complete the electronic version of the Form (with the electronic affidavit form) and submit it electronically while providing the documentary attachments in paper copy to the FTC and DOJ as in Option 1 above. Note that for option three, the attachments must be listed on the attachments page of the Form and classified as "paper to follow". If one or both delivery sites are unavailable, the agencies may announce, through the media and, if possible, [www.ftc.gov](http://www.ftc.gov) and [www.hsr.gov](http://www.hsr.gov), alternate sites for delivery.

**ITEM BY ITEM**

**Affidavit-** Attach the affidavit required by § 803.5 to page 1 of the Form. If filing electronically, submit the electronic version of the affidavit as attachment 1. Acquiring persons in transactions covered by § 801.30 are required to also submit a copy of the notice served on the acquired person pursuant to § 803.5(a)(1). (See § 803.5(a)(3).)

**Fee Information-**The fee for filing the Notification and Report Form is based on the aggregate total amount of assets and voting securities to be held as a result of the acquisition:

Value of assets or voting securities to be held	Fee Amount
greater than \$50 million but less than \$100 million (as adjusted)	\$45,000
\$100 million or greater but less than \$500 million (as adjusted)	\$125,000
\$500 million or greater (as adjusted)	\$280,000

**Amount Paid-**Indicate the amount of the filing fee paid. This amount should be net of any banking or financial institution charges. Where an explanatory attachment is required, include in your explanation any adjustments to the acquisition price that serve to lower the fee from that which would otherwise be due. If there is no acquisition price or if the acquisition price may fall within a range that straddles two filing fee thresholds, state the transaction value on which the fee is based and explain the valuation method used. Include in your explanation a description of any exempt assets, the value assigned to each, and the valuation method used.

A Valuation Worksheet available from the Premerger Notification Office will be helpful in determining the value of a transaction for filing and fee purposes. This Worksheet need not be submitted with the Notification and Report Form, but it or something similar should be utilized and retained by the acquiring person in the event Commission staff has questions about the valuation of the transaction.

**Payer Identification-** Provide the 9-digit Taxpayer Identification Number (TIN) of the acquiring person and, if different from the filing person, the TIN of the payer(s) of the filing fee. A payer or filing person who is a natural person having no TIN must provide the name and social security number (SSN) of the payer. If the payer or filing person is a foreign person, only the name of the payer and the name of the filing person need be supplied if different.

**Method of Payment-**Check the box indicating the method of fee payment. If paying by electronic wire transfer (EWT), provide the name of the financial institution from which the EWT is being sent and the confirmation number.

To insure filing fees paid by EWT are attributed to the appropriate payer filing notification, the payer must provide the following information to the financial institution initiating the EWT:

The Department of Treasury's ABA Number: 021030004;  
and  
The Federal Trade Commission's ALC Number: 29000001.

If the name used to transmit the EWT differs from the filer's name, provide the alternative name. If the confirmation number is unavailable at the time notification is filed, provide this information by letter within one business day of filing.

If paying by certified check or money order send the payment to the Premerger Notification Office at the address above.

**Corrective Filing**—Put an X in the appropriate box to indicate whether the notification is a corrective filing being made for an acquisition that has already taken place in violation of the statute. Attach a detailed, written explanation signed by a company official explaining (1) how the violation occurred, (2) when and how the violation was discovered and (3) what steps will be taken to ensure compliance in the future.

**Transactions Subject to Foreign Antitrust Notification**—If to the knowledge or belief of the filing person at the time of filing this notification, a foreign antitrust or competition authority has been or will be notified of the proposed transaction, list the name of each such authority and the date or anticipated date of each such notification. Response to this item is voluntary.

**Cash Tender Offer**—Put an X in the appropriate box to indicate whether the acquisition is a cash tender offer.

**Bankruptcy**—Put an X in the appropriate box to indicate whether the acquired person's filing is being made by a trustee in bankruptcy or a debtor-in-possession for a transaction that is subject to section 363(b) of the Bankruptcy Code (11USC § 363).

**Early Termination**—Put an X in the yes box to request early termination of the waiting period. Notification of each grant of early termination will be published in the Federal Register as required by § 7A(b)(2) of the Clayton Act and on the FTC web site [www.ftc.gov](http://www.ftc.gov).

#### ITEM 1

Note: When using the electronic version of the Form, Items 1(a) and 1(b) must be completed before proceeding to pages 2-15 of the Form.

**Item 1(a)**—Give the name and headquarters address of the person filing notification. The name of the person is the name of the ultimate parent entity included within that person.

**Item 1(b)**—Indicate whether the person filing notification is an acquiring person, an acquired person, or both an acquiring and acquired person. (See § 801.2.)

**Item 1(c)**—Put an X in the appropriate box to indicate whether the person in Item 1(a) is a corporation, unincorporated entity or other (specify).

**Item 1(d)**—Put an X in the appropriate box to indicate whether data furnished is by calendar year or fiscal year. If fiscal year, specify period.

**Item 1(e)**—Put an X in the appropriate box to indicate if this Form is being filed on behalf of the ultimate parent entity by another entity within the same person authorized by it to file notification on its behalf pursuant to § 803.2(a), or if this Form is being filed pursuant to § 803.4 on behalf of a foreign person. Then provide the name and mailing address of the entity filing notification on behalf of the reporting person named in Item 1(a) of the Form.

**Item 1(f)**—If an entity within the person filing notification other than the ultimate parent entity listed in Item 1(a) is the entity which is making the acquisition, or if the assets, voting securities or non-corporate interests of an entity other than the ultimate parent entity listed in Item 1(a) are being acquired, provide the name and mailing address of that entity and the percentage of its voting securities or non-corporate interest held by the person named in Item 1(a) above. (If control is effected by means other than the direct holding of the entity's voting securities, describe the intermediaries or the contract through which control is effected (see § 801.1(b)).)

**Item 1(g)**—Print or type the name and title, firm name, address, telephone number, fax number and e-mail address of the individual to contact regarding this Notification and Report Form. (See § 803.20(b)(2)(ii).)

**Item 1(h)**—Foreign filing persons print or type the name and title, firm name, address, telephone number, fax number and e-mail address of an individual located in the United States designated for the limited purpose of receiving notice of the issuance of a request for additional information or documentary material. (See § 803.20(b)(2)(iii).)

#### ITEM 2

**Item 2(a)**—Give the names of all ultimate parent entities of acquiring and acquired person which are parties to the acquisition whether or not they are required to file notification.

**Item 2(b)**—Put an X in all the boxes that apply to this acquisition.

**Item 2(c)**—*Acquiring persons* put an X in the box to indicate the highest threshold for which notification is being filed (see § 801.1(h)): \$50 million (as adjusted), \$100 million (as adjusted), \$500 million (as adjusted), 25% (if value of voting securities to be held is greater than \$1 billion, as adjusted), or 50%. The notification threshold selected should be based on voting securities only that will be held as a result of the acquisition.

Note that the 50% notification threshold is the highest threshold and should be used for any acquisition of 50% or more of the voting securities of an issuer, regardless of the value of the voting securities (e.g., an acquisition of 100% of the voting securities of an issuer, valued in excess of \$500 million (as adjusted) would cross the 50% notification threshold, not the \$500 million (as adjusted) threshold).

**Item 2(d)**—*Assets and voting securities held as a result of the acquisition* (to be completed by both acquiring and acquired persons). State:

**Item 2(d)(i)**—the value of voting securities;

**Item 2(d)(ii)**—the percentage of voting securities;

**Item 2(d)(iii)**—the value of assets;

**Item 2(d)(iv)**—the value of non-corporate interests;

**Item 2(d)(v)**—the aggregate total amount of voting securities, assets and non-corporate interests of the acquired person to be held by each acquiring person, as a result of the acquisition (see §§ 801.12, 801.13, and 801.14).

**Item 2(e)**—Acquiring persons must provide the name(s) of the person(s) who performed any fair market valuation used to determine the aggregate total value of the transaction reported in Item 2(d)(v).

### ITEM 3

**Item 3(a)—Description of acquisition.** Briefly describe the transaction. Include a list of the name and mailing address of each acquiring and acquired person, whether or not required to file notification. Indicate for each party whether assets or voting securities (or both) are to be acquired. Also indicate what consideration will be received by each party. In describing the acquisition, include the expected dates of any major events required to consummate the transaction (e.g., stockholders' meetings, filing of requests for approval, other public filings, terminations of tender offers) and the scheduled consummation date of the transaction.

If the voting securities are to be acquired from a holder other than the issuer (or an entity within the same person as the issuer) separately identify (if known) such holder and the issuer of the voting securities. Acquiring persons involved in tender offers should describe the terms of the offer.

**Item 3(b)(i)—Assets to be acquired.** This item is to be completed only to the extent that the transaction is an acquisition of assets. Describe all general classes of assets (other than cash and securities) to be acquired by each party to the transaction, giving dollar values thereof.

Give the total value of the assets to be acquired in this transaction.

Examples of general classes of assets other than cash and securities are land, merchandising inventory, manufacturing plants (specify location and products produced), and retail stores. For each general class of assets, indicate the page or paragraph number of the contract or other document submitted with this Form in which the assets are more particularly described.

**Item 3(b)(ii)—Assets held by acquiring person.** (To be completed by acquiring persons). If assets of the acquired person (see § 801.13) are presently held by the person filing notification, furnish a description of each general class of such assets in the manner required by Item 3(b)(i), and the dollar value or estimated dollar value at the time they were acquired.

**Item 3(b)(iii)—Assets held by unincorporated entities.** This item is to be completed only to the extent that the transaction is an acquisition of non-corporate interests. Describe all general classes of assets (other than cash and securities) to be acquired by each party to the transaction. For examples of general classes of assets refer to Item 3(b)(i).

**Item 3(c)—Voting securities to be acquired.** Furnish the following information separately for each issuer whose voting securities will be acquired in the acquisition: (If, as a result of the acquisition, the acquiring person will hold 100 percent of the voting securities of the acquired issuer or if the acquisition is a merger or consolidation (see § 801.2(d)), the parties may so state and provide the total dollar value of the transaction instead of responding to Items 3(c)(i)–3(c)(vi).

**Item 3(c)(i)**—List each class of voting securities (including convertible voting securities) which will be outstanding after the acquisition has been completed. If there is more than one class of voting securities, include a description of the voting rights of each class. Also list each class of non-voting securities which will be acquired in the acquisition;

**Item 3(c)(ii)**—Total number of shares of each class of securities listed which will be outstanding after the acquisition has been completed;

**Item 3(c)(iii)**—Total number of shares of each class of securities listed which will be acquired in this acquisition. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

**Item 3(c)(iv)**—Identity of each person acquiring any securities of any class listed. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

**Item 3(c)(v)**—Dollar value of securities of each class listed to be acquired in this transaction (see § 801.10). If there is more than one acquiring person of any class of securities, show data separately for each acquiring person (If the exact dollar value cannot be determined at the time of filing, provide an estimated value and indicate the basis on which the estimate was made);

**Item 3(c)(vi)**—Total number of each class of securities listed which will be held by acquiring person(s) after the acquisition has been accomplished. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

**Item 3(d)**—Furnish copies of final or most recent versions of all documents which constitute the agreement among the acquiring person(s) and the person(s) whose voting securities or assets are to be acquired. (For paper copy submissions, do not attach these documents to the Form.)

### ITEM 4

Furnish one copy of each of the following documents. For each entity included within the person filing notification which has prepared its own such documents different from those prepared by the person filing notification, furnish, in addition, one copy of each document from each such other entity. Furnish copies of:

**Item 4(a)**—all of the following documents which have been filed with the United States Securities and Exchange Commission (or are to be filed contemporaneously in connection with this acquisition); the most recent proxy statement and Form 10-K, each dated not more than three years prior to the date of this Notification and Report Form; all Forms 10-Q and 8-K filed since the end of the period reflected by the Form 10-K being supplied; any registration statement filed in connection with the transaction for which notification is being filed; if the acquisition is a tender offer, Schedule TO. Alternatively, the person filing notification may incorporate a document by reference to an internet address directly linking to the document (see §803.2(e)(2));

**NOTE:** In response to Item 4(a), the person filing notification may incorporate by reference documents submitted with an earlier filing as explained in the staff formal interpretations dated April 10, 1979, and April 7, 1981, and in § 803.2(e).



**Item 4(b)**—the most recent annual reports and most recent annual audit reports (of person filing notification and of each unconsolidated United States issuer included within such person) and, if different, the most recently regularly prepared balance sheet of the person filing notification and of each unconsolidated United States issuer included within such person. Alternatively, the person filing notification may incorporate a document by reference to an internet address directly linking to the document (see §803.2(e)(2));

**Item 4(c)**—all studies, surveys, analyses and reports which were prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets, and indicate (if not contained in the document itself) the date of preparation, and the name and title of each individual who prepared each such document.

Persons filing notification may provide an optional index of documents called for by Item 4 of the Answer Sheets.

**NOTE:** If the person filing notification withholds any documents called for by Item 4(c) based on a claim of privilege, the person must provide a statement of reasons for such noncompliance as specified in the staff formal interpretation dated September 13, 1979, and § 803.3(d).

#### ITEMS 5 through 8

**NOTE:** For Items 5 through 8, the acquired person should limit its response in the case of an acquisition of assets, to the assets to be sold, in the case of an acquisition of non-corporate interests, to the unincorporated entity being acquired, and in the case of an acquisition of voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such issuer. A person filing as both acquiring and acquired may be required to provide a separate response to these items in each capacity so that it can properly limit its response as an acquired person. (See § 803.2(b) and (c).)

**Items 5(a)–5(c):** These items request information regarding dollar revenues and lines of commerce at three NAICS levels with respect to operations conducted within the United States. (See § 803.2(c)(1).) All persons must submit certain data at the 6-digit NAICS industry code level. To the extent that dollar revenues are derived from manufacturing operations (NAICS Sectors 31–33), data must also be submitted at the 7-digit product class level and 10-digit product code level (NAICS-based codes). Where certain published NAICS industry codes contain only 5 digits, the filing person should add a zero (0) after the fifth (5<sup>th</sup>) digit.

**NOTE:** See “References” listed in the General Instructions to the Form. Refer to the 2002 NAICS Manual for the 6-digit industry codes and the 2002 Numerical List of Manufactured and Mineral Products (2002 Numerical List) for the 7-digit product classes and 10-digit product codes. Report revenues for the 7-digit NAICS product classes and 10-digit NAICS product codes using the codes in the columns labeled “Product code” in the 2002 Numerical List.

Nondepository credit intermediation (NAICS Industry Group Code 5222); securities, commodity contracts, and other financial investments (NAICS Subsector 523); funds, trusts, and other financial vehicles (NAICS Subsector 525); real estate (NAICS Subsector 531); lessors of nonfinancial intangible assets, except copyright works (NAICS Subsector 533); and management of companies and enterprises (NAICS Subsector 551) should identify or explain the revenues reported (e.g. dollar sales receipts).

Persons filing notification should include the total dollar revenues for all entities included within the person filing notification at the time this Notification and Report Form is prepared (even if such entities have become included within the person since 2002). For example, if the person filing notification acquired an entity in 2003, it must include that entity’s 2002 revenues in items 5(a) and 5(b)(i). It must also include that entity’s most recent year’s revenues in Item 5(b)(iii) and/or Item 5(c).

**Item 5(a)—Dollar revenues by industry.** Provide aggregate 6-digit NAICS industry data for 2002.

**Item 5(b)(i)—Dollar revenues by manufactured product.** Provide the following information on the aggregate operations for the person filing notification for 2002 for each 10-digit NAICS product of the person in NAICS Sectors 31–33 (manufacturing industries).

**NOTE:** Where the 2002 Numerical List denotes footnote 1 at the end of a specific Subsector, refer to Appendices A, and then B for detail collected in a specified Current Industrial Report. You must provide 10-digit NAICS product codes and descriptions listed in Appendix B.

**Item 5(b)(ii)—Products added or deleted.** Within NAICS Sectors 31–33 (manufacturing industries), identify each product of the person filing notification added or deleted subsequent to 2002, indicate the year of addition or deletion, and state total dollar revenues in the most recent year for each product that has been added. Products may be identified either by 10-digit NAICS product code or in the manner ordinarily used by the person filing notification.

Do not include products added since 2002 by reason of mergers or acquisitions of entities occurring since 2002. Dollar revenues derived from such products should be included in response to Item 5(b)(i). However, if an entity acquired since 2002 by the person filing notification (and now included within the person) itself has added any products since 2002, these products and the dollar revenues derived therefrom should be listed here. Products deleted by reason of dispositions of assets constituting less than substantially all of the assets of an entity since 2002 should also be listed here.

**Item 5(b)(iii)—Dollar revenues by manufactured product class.** Provide the following information concerning the aggregate operations of the person filing notification for the most recent year for each 7-digit NAICS product class within NAICS Sectors 31–33 (manufacturing industries) in which the person engaged. If such data have not been compiled for the most recent year, estimates of dollar revenues by 7-digit NAICS product class may be provided if a statement describing the method of estimation is furnished.

**Item 5(c)-Dollar revenues by non-manufacturing industry.** Provide the following information concerning the aggregate operations of the person filing notification for the most recent year for each 6-digit NAICS industry code in NAICS Sectors other than 31-33 (manufacturing industries) in which the person engaged. If such data have not been compiled for the most recent year, estimates of dollar revenues by 6-digit NAICS industry code may be provided if a statement describing the method of estimation is furnished. Industries for which the dollar revenues totaled less than one million dollars in the most recent year may be omitted.

**NOTE:** This million dollar minimum is applicable only to Item 5(c).

#### JOINT VENTURE CORPORATION OR UNINCORPORATED ENTITY

**Item 5(d)**-Supply the following information only if the acquisition is the formation of a joint venture corporation or unincorporated entity. (See § 801.40.)

**Item 5(d)(i)**-List the name and mailing address of the joint venture corporation or unincorporated entity.

**Item 5(d)(ii)(A)**-List contributions that each person forming the joint venture corporation or unincorporated entity has agreed to make, specifying when each contribution is to be made and the value of the contribution as agreed by the contributors.

**Item 5(d)(ii)(B)**-Describe any contracts or agreements whereby the joint venture corporation or unincorporated entity will obtain assets or capital from sources other than the persons forming it.

**Item 5(d)(ii)(C)**-Specify whether and in what amount the persons forming the joint venture corporation or unincorporated entity have agreed to guarantee its credit or obligations.

**Item 5(d)(ii)(D)**-Describe fully the consideration which each person forming the joint venture corporation or unincorporated entity will receive in exchange for its contribution(s).

**Item 5(d)(iii)**-Describe generally the business in which the joint venture corporation or unincorporated entity will engage, including location of headquarters and principal plants, warehouses, retail establishments or other places of business, its principal types of products or activities, and the geographic areas in which it will do business.

**Item 5(d)(iv)**-Identify each 6-digit NAICS industry code in which the joint venture corporation or unincorporated entity will derive dollar revenues. If the joint venture corporation or unincorporated entity will be engaged in manufacturing also specify each 7-digit NAICS product class in which it will derive dollar revenues.

#### ITEM 6

This item need not be completed by a person filing notification only as an acquired person if only assets are to be acquired. Persons filing notification may respond to Items 6(a), 6(b), or 6(c) by referencing a "document attachment" furnished with this Form if the information so referenced is a complete response and is up-to-date and accurate. Indicate for each item the specific page(s) of the document that are responsive to that item.

**Item 6(a)-Entities within the person filing notification.** List the name and headquarters mailing address of each entity included within the person filing notification. Entities with total assets of less than \$10 million may be omitted.

**Item 6(b)-Shareholders of person filing notification.** For each entity (including the ultimate parent entity) included within the person filing notification the voting securities of which are held (see § 801.1(c)) by one or more other persons, list the issuer and class of voting securities, the name and headquarters mailing address of each other person which holds five percent or more of the outstanding voting securities of the class and the number and percentage held by that person. Holders need not be listed for entities with total assets of less than \$10 million.

**Item 6(c)-Holdings of person filing notification.** If the person filing notification holds voting securities of any issuer not included within the person filing notification, list the issuer and class, the number and percentage held, and (optionally) the entity within the person filing notification which holds the securities. Holdings of less than five percent of the outstanding voting securities of any issuers, and holding of issuers with total assets of less than \$10 million may be omitted.

#### ITEM 7

If, to the knowledge or belief of the person filing notification, the acquiring person filing notification derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS industry code in which any acquired person that is a party to the acquisition also derived dollar revenues in the most recent year (or in which a joint venture corporation or unincorporated entity will derive dollar revenues), then for each such 6-digit NAICS industry code:

**Item 7(a)**-supply the 6-digit NAICS industry code and description for the industry;

**Item 7(b)**-list the name of each person which is a party to the acquisition which also derived dollar revenues in the 6-digit industry;

**Item 7(c)-Geographic market information:**

**Item 7(c)(i)**-for each 6-digit NAICS industry code within NAICS Sectors 31-33 (manufacturing industries) listed in Item 7(a) above, list the states or, if desired, portions thereof in which, to the knowledge or belief of the person filing notification, the products in that 6-digit NAICS code produced by the person filing notification are sold without a significant change in their form, whether they are sold by the person filing notification or by others to whom such products have been sold or resold;

**Item 7(c)(ii)**- for each 6-digit NAICS industry code within NAICS Sectors or Subsectors 11 (agriculture, forestry, fishing and hunting); 21 (mining); 22 (utilities); 23 (construction); 48-49 (transportation and warehousing); 511 (publishing industries); 515 (broadcasting); 517 (telecommunications); and 71 (arts, entertainment and recreation) listed in item 7(a) above, list the states or, if desired, portions thereof in which the person filing notification conducts such operations;

**Item 7(c)(iii)**-for each 6-digit NAICS industry code within NAICS Sector 42 (wholesale trade) listed in Item 7(a) above, list the states or, if desired, portions thereof in which the customers of the person filing notification are located;

**Item 7(c)(iv)**-for each 6-digit NAICS industry code within NAICS Sectors or Subsectors 44-45 (retail trade); 512 (motion picture and sound recording industries); 521 (monetary authorities-central bank); 522 (credit intermediation and related activities); 532 (rental and leasing services); 62 (health care and social assistance); 72 (accommodations and food services); 811 (repair and maintenance); and 812 (personal and laundry services) listed in Item 7(a) above, provide the address, **arranged by state, county and city or town**, of each establishment from which dollar revenues were derived in the most recent year by the person filing notification;

**Item 7(c)(v)**- for each 6-digit NAICS industry code within NAICS Subsectors 516 (internet publishing & broadcasting); 518 (internet service providers); 519 (other information services); 523 (securities, commodity contracts and other financial investments and related activities); 525 (funds, trusts and other financial vehicles); 53 (real estate and rental and leasing); 54 (professional, scientific and technical services); 55 (management of companies and enterprises); 56 (administrative and support and waste management and remediation services); 61 (educational services); 813 (religious, grantmaking, civic, professional, and similar organizations); and NAICS Industry Group 5242 (insurance agencies and brokerages, and other insurance related activities) listed in Item 7(a) above, list the states or, if desired, portions thereof in which establishments were located from which the person filing notification derived revenues in the most recent year; and

**Item 7(c)(vi)**-for each 6-digit NAICS industry code within NAICS Industry Group 5241 (insurance carriers) listed in Item 7(a) above, list the state(s) in which the person filing notification is licensed to write insurance.

**NOTE:** Except in the case of those NAICS major industries in the Sectors and Subsectors mentioned in Item 7(c)(iv) above, the person filing notification may respond with the word "national" if business is conducted in all 50 states.

#### ITEM 8

**Item 8-Previous acquisitions** (to be completed by acquiring persons). Determine each 6-digit NAICS industry code listed in Item 7(a) above, in which the person filing notification derived dollar revenues of \$1 million or more in the most recent year and in which either the acquired issuer derived revenues of \$1 million or more in the recent year (or, in which, in the case of the formation of a joint venture corporation or unincorporated entity, the joint venture corporation or unincorporated entity reasonably can be expected to derive revenues of \$1 million or more), or revenues of \$1 million or more in the most recent year were attributable to the acquired assets. For each such 6-digit NAICS industry code, list all acquisitions made by the person filing notification in the five years prior to the date of filing of entities deriving dollar revenues in that 6-digit NAICS industry code. List only acquisitions of 50 percent or more of the voting securities of an issuer which had annual net sales or total assets greater than \$10 million in the year prior to the acquisition, and any acquisitions of assets valued at or above the statutory size-of-transaction test at the time of their acquisition.

For each such acquisition, supply:

- (a) the name of the entity acquired;
- (b) the headquarters address of the entity prior to the acquisition;
- (c) whether securities or assets were acquired;
- (d) the consummation date of the acquisition; and
- (e) the 6-digit (NAICS code) industries by (number and description) identified above in which the acquired entity derived dollar revenues.

#### CERTIFICATION- (See § 803.6.)

The language found in 28 U.S.C. § 1746 relating to unsworn declarations under penalty of perjury may be used instead of notarization of the certification.

TRANSACTION NUMBER ASSIGNED

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**16 C.F.R. Part 803 - Appendix****NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS**Approved by OMB  
3084-0005  
Expires 05/31/2007

THE INFORMATION REQUIRED TO BE SUPPLIED ON THESE ANSWER SHEETS IS SPECIFIED IN THE INSTRUCTIONS

↓ Attach the Affidavit required by § 803.5 to this page.

**FEE INFORMATION**

AMOUNT PAID \$ \_\_\_\_\_  
In cases where your filing fee would be higher if based on acquisition price or where the acquisition price is undetermined to the extent that it may straddle a filing fee threshold, attach an explanation of how you determined the appropriate fee (acquiring persons only).  
Attachment Number \_\_\_\_\_

**TAXPAYER IDENTIFICATION NUMBER**

or SOCIAL SECURITY NUMBER of payer \_\_\_\_\_  
(acquiring person (and payer if different from acquiring person))  
CHECK ATTACHED ☐ MONEY ORDER ATTACHED ☐  
WIRE TRANSFER ☐ CONFIRMATION NO. \_\_\_\_\_  
FROM: NAME OF INSTITUTION \_\_\_\_\_  
NAME OF PAYER (if different from PERSON FILING) \_\_\_\_\_

IS THIS A CORRECTIVE FILING? ☐ YES ☐ NOIS THIS ACQUISITION SUBJECT TO FOREIGN FILING REQUIREMENTS? ☐ YES ☐ NO  
If YES, list jurisdictions: (voluntary) \_\_\_\_\_IS THIS ACQUISITION A CASH TENDER OFFER? ☐ YES ☐ NO BANKRUPTCY? ☐ YES ☐ NODO YOU REQUEST EARLY TERMINATION OF THE WAITING PERIOD? (Grants of early termination are published in the Federal Register AND on the FTC web site [www.ftc.gov](http://www.ftc.gov))  
☐ YES ☐ NO**ITEM 1 – PERSON FILING**1(a) NAME and  
HEADQUARTERS ADDRESS  
of PERSON FILING \_\_\_\_\_**1(b) PERSON FILING NOTIFICATION IS**☐ an acquiring person ☐ an acquired person ☐ both**1(c) PUT AN "X" IN THE APPROPRIATE BOX TO DESCRIBE PERSON FILING NOTIFICATION**☐ Corporation ☐ Unincorporated Entity ☐ Other (Specify): \_\_\_\_\_**1(d) DATA FURNISHED BY**☐ calendar year ☐ fiscal year (specify period ) \_\_\_\_\_ (month/year) to \_\_\_\_\_ (month/year)

THIS FORM IS REQUIRED BY LAW and must be filed separately by each person which, by reason of a merger, consolidation or acquisition, is subject to §7A of the Clayton Act, 15 U.S.C. §18a, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, 90 Stat. 1390, and rules promulgated thereunder (hereinafter referred to as "the rules" or by section number). The statute and rules are set forth in the *Federal Register* at 43 FR 33450; the rules may also be found at 16 CFR Parts 801-03. Failure to file this **Notification and Report Form**, and to observe the required waiting period before consummating the acquisition in accordance with the applicable provisions of 15 U.S.C. §18a and the rules, subjects any "person," as defined in the rules, or any individuals responsible for noncompliance, to liability for a penalty of not more than \$11,000 for each day during which such person is in violation of 15 U.S.C. §18a.

Pursuant to the Hart-Scott-Rodino Act, information and documentary material filed in or with this Form is confidential. It is exempt from disclosure under the Freedom of Information Act, and may be made public only in an administrative or judicial proceeding, or disclosed to Congress or to a duly authorized committee or subcommittee of Congress.

**Filing** - Complete and return two copies (with one original affidavit and certification and one set of documentary attachments) of this Notification and Report Form to: Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Three copies (with one set of documentary attachments) should be sent to: Director of Operations and Merger Enforcement, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue N.W., Room #3335, Washington, D.C. 20530. (For FEDEX airmails to the Department of Justice do not use the 20530 zip code; use zip code 20004.)

**DISCLOSURE NOTICE** - Public reporting burden for this report is estimated to vary from 8 to 160 hours per response, with an average of 39 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this report, including suggestions for reducing this burden to: Premerger Notification Office, H-303, Federal Trade Commission, Washington, DC 20503 and Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20580

Under the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. That number is 3084-0005, which also appears in the upper right-hand corner of the first page of this form.

**Privacy Act Statement**—Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. Our authority to collect Social Security numbers is 31 U.S.C. 7701. The primary use of information submitted on this Form is to determine whether the reported merger or acquisition may violate the antitrust laws. Taxpayer information is collected, used, and may be shared with other agencies and contractors for payment processing, debt collection and reporting purposes. Furnishing the information on the Form is voluntary. Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to \$11,000 per day. We also may be unable to process the Form unless you provide all of the requested information.

## Pt. 803, App.

## 16 CFR Ch. I (1-1-09 Edition)

NAME OF PERSON FILING NOTIFICATION		DATE	
1(e) PUT AN X IN THE APPROPRIATE BOX AND GIVE THE NAME AND ADDRESS OF ENTITY FILING NOTIFICATION (if other than ultimate parent entity)			
<input type="checkbox"/> NA <input type="checkbox"/> This report is being filed on behalf of a foreign person pursuant to § 803.4. <input type="checkbox"/> This report is being filed on behalf of the ultimate parent entity by another entity within the same person authorized by it to file pursuant to § 803.2(a).			
NAME OF ENTITY FILING NOTIFICATION		ADDRESS	
1(f) NAME AND ADDRESS OF ENTITY MAKING ACQUISITION OR WHOSE ASSETS, VOTING SECURITIES OR NON-CORPORATE INTERESTS ARE BEING ACQUIRED IF DIFFERENT FROM THE ULTIMATE PARENT ENTITY IDENTIFIED IN ITEM 1(a)			
PERCENT OF VOTING SECURITIES OR NON-CORPORATE INTERESTS HELD BY EACH ENTITY IDENTIFIED IN ITEM 1(a)			
1(g) IDENTIFICATION OF PERSON TO CONTACT REGARDING THIS REPORT			
NAME OF CONTACT PERSON TITLE FIRM NAME BUSINESS ADDRESS  TELEPHONE NUMBER FAX NUMBER E-MAIL ADDRESS			
(h) IDENTIFICATION OF AN INDIVIDUAL LOCATED IN THE UNITED STATES DESIGNATED FOR THE LIMITED PURPOSE OF RECEIVING NOTICE OF ISSUANCE OF A REQUEST FOR ADDITIONAL INFORMATION OR DOCUMENTS. (See § 803.20(b)(2)(iii))			
NAME OF CONTACT PERSON TITLE FIRM NAME BUSINESS ADDRESS  TELEPHONE NUMBER FAX NUMBER E-MAIL ADDRESS			
<b>ITEM 2</b>			
2(a) LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRING PERSONS		LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRED PERSONS	
2(b) THIS ACQUISITION IS (put an X in all the boxes that apply)			
<input type="checkbox"/> an acquisition of assets <input type="checkbox"/> a merger (see § 801.2) <input type="checkbox"/> an acquisition subject to § 801.2(e) <input type="checkbox"/> a formation of a joint venture or other corporation or unincorporated entity (see § 801.40 or § 801.50) <input type="checkbox"/> an acquisition subject to § 801.30 (specify type) _____ <input type="checkbox"/> other (specify) _____		<input type="checkbox"/> a consolidation (see § 801.2) <input type="checkbox"/> an acquisition of voting securities <input type="checkbox"/> a secondary acquisition <input type="checkbox"/> an acquisition subject to § 801.31 <input type="checkbox"/> acquisition of non-corporate interests	
2(c) INDICATE THE HIGHEST NOTIFICATION THRESHOLD IN § 801.1(h) FOR WHICH THIS FORM IS BEING FILED (acquiring person only in an acquisition of voting securities)			
<input type="checkbox"/> \$50 million (as adjusted) <input type="checkbox"/> \$100 million (as adjusted) <input type="checkbox"/> \$500 million (as adjusted) <input type="checkbox"/> 25% (see Instructions) (as adjusted) <input type="checkbox"/> 50%			
2(d)(i) VALUE OF VOTING SECURITIES TO BE HELD AS A RESULT OF THE ACQUISITION	(ii) PERCENTAGE OF VOTING SECURITIES	(iii) VALUE OF ASSETS TO BE HELD AS A RESULT OF THE ACQUISITION	(iv) VALUE OF NONCORPORATE INTERESTS TO BE HELD AS A RESULT OF THE ACQUISITION
\$	%	\$	\$
(v) AGGREGATE TOTAL VALUE			
\$			

**Federal Trade Commission**

**Pt. 803, App.**

NAME OF PERSON FILING NOTIFICATION	DATE
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2(e) If aggregate total value in 2(d)(v) is based in whole or in part on a fair market valuation pursuant to § 801.10(c)(3), identify the person or persons responsible for making the valuation (*acquiring persons only*).

**ITEM 3**

3(a) DESCRIPTION OF ACQUISITION

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NAME OF PERSON FILING NOTIFICATION

DATE

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3(b)(i) ASSETS TO BE ACQUIRED (to be completed only for asset acquisitions)

---

3(b)(ii) ASSETS HELD BY ACQUIRING PERSON

---

3(b)(iii) ASSETS HELD BY UNINCORPORATED ENTITIES

---

3(c) VOTING SECURITIES TO BE ACQUIRED

3(c)(i) LIST AND DESCRIPTION OF VOTING SECURITIES AND LIST OF NON-VOTING SECURITIES:

3(c)(ii) TOTAL NUMBER OF SHARES OF EACH CLASS OF SECURITY:

3(c)(iii) TOTAL NUMBER OF SHARES OF EACH CLASS OF SECURITY BEING ACQUIRED:

NAME OF PERSON FILING NOTIFICATION	DATE
------------------------------------	------

3(c)(iv) IDENTITY OF PERSONS ACQUIRING SECURITIES:

3(c)(v) DOLLAR VALUE OF SECURITIES IN EACH CLASS BEING ACQUIRED:

3(c)(vi) TOTAL NUMBER OF EACH CLASS OF SECURITIES TO BE HELD AS A RESULT OF THE ACQUISITION:

3(d) SUBMIT A COPY OF THE MOST RECENT VERSION OF CONTRACT OR AGREEMENT (or letter of intent to merge or acquire)	
DO NOT ATTACH THIS DOCUMENT TO THIS PAGE	ATTACHMENT OR REFERENCE NUMBER OF CONTRACT OR AGREEMENT



NAME OF PERSON FILING NOTIFICATION	DATE
------------------------------------	------

**ITEM 4** PERSONS FILING NOTIFICATION MAY PROVIDE BELOW AN OPTIONAL INDEX OF DOCUMENTS REQUIRED TO BE SUBMITTED BY ITEM 4 (See Item by Item instructions). THESE DOCUMENTS SHOULD NOT BE ATTACHED TO THIS PAGE.

4(a) DOCUMENTS FILED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION ATTACHMENT OR REFERENCE NUMBER

4(b) ANNUAL REPORTS, ANNUAL AUDIT REPORTS, AND REGULARLY PREPARED BALANCE SHEETS ATTACHMENT OR REFERENCE NUMBER

4(c) STUDIES, SURVEYS, ANALYSES, AND REPORTS ATTACHMENT OR REFERENCE NUMBER

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**ITEM 5** (See "References" listed in the General Instructions to the Form. Refer to the *North American Industry Classification System—United States, 2002 (2002 NAICS Manual)* for the 6-digit (NAICS) industry codes. Refer to the *2002 Numerical List of Manufactured and Mineral Products (EC02M31R-NL)* for the 7-digit product class codes and the 10-digit product codes. Report revenues for the 7-digit product class codes and 10-digit product codes using the codes in the columns labeled "Product code." For further information on NAICS-based codes visit the [www.census.gov web site.](http://www.census.gov/web/site/))

## 5(a) DOLLAR REVENUES BY INDUSTRY

6-DIGIT INDUSTRY CODE	DESCRIPTION	2002 TOTAL DOLLAR REVENUES

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ITEM 5(b)(ii) PRODUCTS ADDED OR DELETED

DESCRIPTION (10-DIGIT PRODUCT CODE)	ADD	DELETE	YEAR OF CHANGE	TOTAL DOLLAR REVENUES
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ITEM 5(b)(iii) DOLLAR REVENUES BY MANUFACTURED PRODUCT CLASS

7-DIGIT PRODUCT CLASS	DESCRIPTION	<div>YEAR</div> <div>TOTAL DOLLAR REVENUES</div>

(Item 5(b)(iii) continued on page 10)

(Item 5(b)(iii) continued on page 10)

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ITEM 5(b)(iii) DOLLAR REVENUES BY MANUFACTURED PRODUCT CLASS - CONTINUED

7-DIGIT PRODUCT CLASS	DESCRIPTION	YEAR  -----  TOTAL DOLLAR REVENUES
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ITEM 5(c) DOLLAR REVENUES BY NON-MANUFACTURING INDUSTRY

6-DIGIT INDUSTRY CODE	DESCRIPTION	YEAR TOTAL DOLLAR REVENUES
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5(d) COMPLETE ONLY IF ACQUISITION IS IN THE FORMATION OF A JOINT VENTURE CORPORATION OR UNINCORPORATED ENTITY.  
5(d)(i) NAME AND ADDRESS OF THE JOINT VENTURE CORPORATION OR UNINCORPORATED ENTITY

5(d)(ii)  
(A) CONTRIBUTIONS THAT EACH PERSON FORMING THE JOINT VENTURE CORPORATION OR UNINCORPORATED ENTITY  
HAS AGREED TO MAKE

(B) DESCRIPTION OF ANY CONTRACTS OR AGREEMENTS

(C) DESCRIPTION OF ANY CREDIT GUARANTEES OR OBLIGATIONS

(D) DESCRIPTION OF CONSIDERATION WHICH EACH PERSON FORMING THE JOINT VENTURE CORPORATION OR  
UNINCORPORATED ENTITY WILL RECEIVE

5(d)(iii) DESCRIPTION OF THE BUSINESS IN WHICH THE JOINT VENTURE CORPORATION OR UNINCORPORATED ENTITY WILL ENGAGE

5(d)(iv) SOURCE OF DOLLAR REVENUES BY 6-DIGIT INDUSTRY CODE (non-manufacturing) AND BY 7-DIGIT PRODUCT CLASS (manufacturing)

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ITEM 6  
6(a) ENTITIES WITHIN PERSON FILING NOTIFICATION

6(b) SHAREHOLDERS OF PERSON FILING NOTIFICATION

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6(c) HOLDINGS OF PERSON FILING NOTIFICATION

ITEM 7 DOLLAR REVENUES  
7(a) 6-DIGIT NAICS CODE AND DESCRIPTION

7(b) NAME OF EACH PERSON WHICH ALSO DERIVED DOLLAR REVENUES



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7(c) GEOGRAPHIC MARKET INFORMATION

ITEM 8 PRIOR ACQUISITIONS (to be completed by acquiring person only)

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**CERTIFICATION**

This **NOTIFICATION AND REPORT FORM**, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with instructions issued by the Federal Trade Commission. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete in accordance with the statute and rules.

NAME (Please print or type)	TITLE
SIGNATURE	DATE

Subscribed and sworn to before me at the  
 City of \_\_\_\_\_, State of \_\_\_\_\_  
 this \_\_\_\_\_ day of \_\_\_\_\_, the year \_\_\_\_\_  
 Signature \_\_\_\_\_  
 My Commission expires \_\_\_\_\_

[SEAL]